



## CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 13-C0005]

Williams-Sonoma, Inc., Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission

ACTION: Notice

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the Federal Register in accordance with the terms of 16 C.F.R. § 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Williams- Sonoma, Inc., containing a civil penalty of \$987,500, within twenty (20) days of service of the Commission's final Order accepting the Settlement Agreement.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by [insert date that is 15 calendar days from publication date].

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 13-C0005, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Room 820, Bethesda, Maryland 20814-4408.

FOR FURTHER INFORMATION CONTACT: Kelly M. Moore, Trial Attorney, Division of Compliance, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814-4408; telephone (301) 504-7447.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

May 6, 2013

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Todd A. Stevenson

Secretary

**UNITED STATES OF AMERICA  
CONSUMER PRODUCT SAFETY COMMISSION**

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In the Matter of:

WILLIAMS-SONOMA, INC.

CPSC Docket No.: 13-C0005

**SETTLEMENT AGREEMENT**

1. In accordance with the Consumer Product Safety Act, 15 U.S.C. §§ 2051–2089 (CPSA) and 16 C.F.R. § 1118.20, Williams-Sonoma, Inc. (WS), and the United States Consumer Product Safety Commission (Commission), through its staff (Staff), hereby enter into this Settlement Agreement (Agreement). The Agreement, and the incorporated attached Order, resolve Staff’s charges set forth below.

**THE PARTIES**

2. The Commission is an independent federal regulatory agency, established pursuant to, and responsible for, the enforcement of the CPSA, 15 U.S.C. §§ 2051–2089. By executing the Agreement, the Staff is acting on behalf of the Commission, pursuant to 16 C.F.R. § 1118.20(b). The Commission issues the Order under the provisions of the CPSA.

3. WS is a corporation, organized and existing under the laws of the State of Delaware, with its principal corporate office located at 3250 Van Ness Avenue, San Francisco, CA 94109.

4. At all times relevant to this Agreement, Pottery Barn, Inc. was a wholly-owned subsidiary of WS.

## STAFF CHARGES

5. Between 2003 and 2008, WS imported into the United States approximately 30,000 wooden hammock stands (the Products) and distributed them exclusively through Pottery Barn and PBteen catalogs and Web sites, and Pottery Barn Outlet stores. The Products were sold nationwide for approximately \$300.

6. The Products are wooden hammock stands for outdoor use that are held together by metal brackets. Cloth hammocks designed for one or multiple users can be hooked to the steel eye bolts located on the Product's vertical support beams. The Products are "consumer products" "distributed in commerce," as those terms are defined or used in sections 3(a)(5), (8), and (11) of the CPSA, 15 U.S.C. § 2052(a)(5), (8), and (11), and at all relevant times, WS was a "manufacturer" and "retailer" of those items, as such terms are defined or used in sections 3(a)(11) and (13) of the CPSA, 15 U.S.C. § 2052(a)(11) and (13).

7. The Products are defective because water and moisture can become trapped in the metal brackets, which can cause the wooden beams to rot inside the bracket. The Products were marketed for outdoor use, where they would routinely be exposed to rain and other inclement weather. Because the rotting was occurring inside the metal bracket, where it was hidden from view, there sometimes was no outward indication to consumers that the wood was rotting, until a consumer sat in the hammock and the beams broke. This posed fall and laceration hazards to consumers.

8. WS received notice of a Product failure as early as November 2004, when a consumer reported to WS that the vertical support beam of the Product's wooden frame had snapped, causing her guest to fall to the ground and sustain injury.

9. On or before October 28, 2006, the date by which WS received its eighth incident report involving the Products<sup>1</sup>, WS had obtained sufficient information that reasonably supported the conclusion that the Products contained a defect or possible defect that could create a substantial product hazard or created an unreasonable risk of serious injury or death. WS was required to inform the Commission immediately of such defect or risk, as required by sections 15(b)(3) and (4) of the CPSA, 15 U.S.C. §2064(b)(3) and (4).

10. Despite having information regarding the Products' defect, WS failed to inform the Commission immediately of such defect or risk, as required by sections 15(b)(3) and (4) of the CPSA, 15 U.S.C. §§ 2064(b)(3) and (4).

11. WS did not file its Full Report with the Commission until September 11, 2008. WS recalled the Products on October 1, 2008. By that time, WS was aware of 45 incidents involving the Products.

12. In failing to inform the Commission about the Products immediately, WS knowingly violated section 19(a)(4) of the CPSA, 15 U.S.C. § 2068(a)(4), as the term "knowingly" is defined in section 20(d) of the CPSA, 15 U.S.C. § 2069(d).

13. Pursuant to section 20 of the CPSA, 15 U.S.C. § 2069, WS is subject to civil penalties for its knowing failure to report, as required under section 15(b) of the CPSA, 15 U.S.C. § 2064(b).

#### RESPONSE OF WILLIAMS-SONOMA, INC.

14. WS neither admits nor denies the charges set forth in paragraphs 5 through 13 above, including but not limited to, the charge that the Products contained a defect that could create a substantial product hazard or create an unreasonable risk of serious injury or death, and

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<sup>1</sup> At least one consumer was injured in each of the eight incidents reported to WS through October 28, 2006; in one such incident, two consumers reported injury. The incident report WS received on October 28, 2006 included an

the contention that WS failed to notify the Commission in a timely manner, in accordance with section 15(b) of the CPSA, 15 U.S.C. § 2064(b).

#### AGREEMENT OF THE PARTIES

15. Under the CPSA, the Commission has jurisdiction over the matter involving the Products described herein and over WS.

16. In settlement of Staff's charges, and to avoid the cost, distraction, delay, uncertainty, and inconvenience of protracted litigation or other proceedings, WS shall pay a civil penalty in the amount of nine hundred eighty-seven thousand five hundred dollars (\$987,500) within twenty (20) calendar days after receiving service of the Commission's final Order accepting the Agreement. The payment shall be made by electronic wire transfer to the Commission via: <http://www.pay.gov>.

17. The parties enter into the Agreement for settlement purposes only. The Agreement does not constitute an admission by WS or a determination by the Commission that WS violated the CPSA's reporting requirements.

18. Following Staff's receipt of this Agreement executed on behalf of WS, Staff shall promptly submit the Agreement to the Commission for provisional acceptance. Promptly following provisional acceptance of the Agreement by the Commission, the Agreement shall be placed on the public record and published in the *Federal Register*, in accordance with the procedures set forth in 16 C.F.R. § 1118.20(e). If the Commission does not receive any written request not to accept the Agreement within fifteen (15) calendar days, the Agreement shall be deemed finally accepted on the 16<sup>th</sup> calendar day after the date the Agreement is published in the *Federal Register*, in accordance with 16 C.F.R. § 1118.20(f).

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account of the ninth Product-related injury then known to WS.

19. This Agreement is conditioned upon, and subject to, the Commission's final acceptance, as set forth above, and it is subject to the provisions of 16 C.F.R § 1118.20(h). Upon the later of: (i) Commission's final acceptance of this Agreement and service of the accepted Agreement upon WS; and (ii) the date of issuance of the final Order, this Agreement shall be in full force and effect and shall be binding upon the parties.

20. Effective upon the later of: (i) the Commission's final acceptance of the Agreement and service of the accepted Agreement upon WS; and (ii) and the date of issuance of the final Order, for good and valuable consideration, WS hereby expressly and irrevocably waives and agrees not to assert any past, present, or future rights to the following, in connection with the matter described in this Agreement: (i) an administrative or judicial hearing; (ii) judicial review or other challenge or contest of the Commission's actions; (iii) a determination by the Commission of whether WS failed to comply with the CPSA and the underlying regulations; (iv) a statement of findings of fact and conclusions of law; and (v) any claims under the Equal Access to Justice Act.

21. WS shall implement and maintain a compliance program designed to ensure compliance with the safety statutes and regulations enforced by the Commission that, at a minimum, contains the following elements: (i) written standards and policies; (ii) a mechanism for confidential employee reporting of compliance-related questions or concerns to either a compliance officer or to another senior manager with authority to act as necessary; (iii) effective communication of company compliance-related policies and procedures to all employees through training programs or otherwise; (iv) senior manager responsibility for compliance; (v) board oversight of compliance (if applicable); and (vi) retention of all compliance-related records for at least five (5) years and availability of such records to Staff upon request.

22. WS shall maintain and enforce a system of internal controls and procedures designed to ensure that: (i) information required to be disclosed by WS to the Commission is recorded, processed and reported in accordance with applicable law; (ii) all reporting made to the Commission is timely, truthful, complete and accurate; and (iii) prompt disclosure is made to WS's management of any significant deficiencies or material weaknesses in the design or operation of such internal controls that are reasonably likely to adversely affect in any material respect WS's ability to record, process and report to the Commission in accordance with applicable law.

23. Upon request of Staff, WS shall provide written documentation of such improvements, processes, and controls, including, but not limited to, the effective dates of such improvements, processes, and controls. WS shall cooperate fully and truthfully with Staff and shall make available all information, materials, and personnel deemed necessary by Staff to evaluate WS's compliance with the terms of the Agreement.

24. The parties acknowledge and agree that the Commission may make public disclosure of the terms of the Agreement and the Order.

25. WS represents that the Agreement: (i) is freely and voluntarily entered into, without any degree of duress or compulsion whatsoever; (ii) has been duly authorized; and (iii) constitutes the valid and binding obligation of WS, enforceable against WS in accordance with its terms. The individuals signing the Agreement on behalf of WS represent and warrant that they are duly authorized by WS to execute the Agreement.

26. The Commission signatories represent that they are signing the Agreement in their official capacities and that they are authorized to execute this Agreement.

27. The Agreement is governed by the laws of the United States.



28. The Agreement and the Order shall apply to, and be binding upon, WS and each of its successors, transferees, and assigns, and a violation of the Agreement or Order may subject WS, and each of its successors, transferees and assigns, to appropriate legal action.

29. The Agreement and the Order constitute the complete agreement between the parties on the subject matter contained therein.

30. The Agreement may be used in interpreting the Order. Understandings, agreements, representations, or interpretations apart from those contained in the Agreement and the Order may not be used to vary or contradict their terms. For purposes of construction, the Agreement shall be deemed to have been drafted by both of the parties and shall not, therefore, be construed against any party for that reason in any subsequent dispute.

31. The Agreement may not be waived, amended, modified, or otherwise altered, except as in accordance with the provisions of 16 C.F.R. § 1118.20(h). The Agreement may be executed in counterparts.

32. If any provision of the Agreement or the Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Agreement and the Order, such provision shall be fully severable. The balance of the Agreement and the Order shall remain in full force and effect, unless the Commission and WS agree in writing that severing the provision materially affects the purpose of the Agreement and the Order.

(continued on next page)

WILLIAMS-SONOMA, INC.

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Julie P. Whalen  
Executive Vice President, Chief Financial Officer  
Williams-Sonoma, Inc.  
3250 Van Ness Avenue  
San Francisco, CA 94109

Dated: 4/25/13 By: \_\_\_\_\_  
Eric A. Rubel  
Counsel to Williams Sonoma, Inc.  
Arnold & Porter LLP  
555 Twelfth Street, NW  
Washington, DC 20004-1206

U.S. CONSUMER PRODUCT SAFETY  
COMMISSION

Stephanie Tsacoumis  
General Counsel

Mary B. Murphy  
Assistant General Counsel

Dated: 4/25/13 By: \_\_\_\_\_  
Kelly M. Moore, Trial Attorney  
Division of Compliance  
Office of the General Counsel

**UNITED STATES OF AMERICA  
CONSUMER PRODUCT SAFETY COMMISSION**

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In the Matter of:

WILLIAMS-SONOMA, INC.

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CPSC Docket No.: 13-C0005

**ORDER**

Upon consideration of the Settlement Agreement entered into between Williams-Sonoma, Inc. (WS), and the U.S. Consumer Product Safety Commission (Commission), and the Commission having jurisdiction over the subject matter and over WS, and it appearing that the Settlement Agreement and the Order are in the public interest, it is:

**ORDERED** that the Settlement Agreement be, and is, hereby, accepted; and it is

**FURTHER ORDERED** that WS shall comply with the terms of the Settlement Agreement and shall pay a civil penalty in the amount of nine hundred eighty-seven thousand five hundred dollars (\$987,500) within twenty (20) days of service of the Commission's final Order accepting the Settlement Agreement. The payment shall be made by electronic wire transfer to the Commission via: <http://www.pay.gov>. Upon the failure of WS to make the foregoing payment when due, interest on the unpaid amount shall accrue and be paid by WS at the federal legal rate of interest set forth at 28 U.S.C. § 1961(a) and (b). If WS fails to make such payment or to comply in full with any other provision as set forth in the Settlement Agreement, such conduct will be considered a violation of the Settlement Agreement and Order.

(continued on next page)

Provisionally accepted and provisional Order issued on the 3rd day of May, 2013.

**BY ORDER OF THE COMMISSION:**

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Todd A. Stevenson, Secretary  
U.S. Consumer Product Safety Commission

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